

## **REMARKS**

### **I. STATUS OF THE CLAIMS**

Claims 1-35 and 44-48 were pending at the time of the Action. Claims 29-35 are withdrawn from consideration. Claims 1, 3-5, 11-13, and 21-28 are amended to further clarify the claims. Claims 2, 6-10, and 36-48 are canceled. Support for claim amendments can be found in the claims as originally filed and on page 4 lines 18-23. No new matter has been added. Claims 1, 3-5, and 11-28 are currently under examination.

### **II. REJECTION UNDER 35 U.S.C. §103**

The Action rejects claim 1, 2, 4, 5, 15-18, and 44 as being unpatentable over Dower et al., 6,465,430. Applicants respectfully traverse.

Obviousness requires a suggestion of all the elements in a claim (*CFMT, Inc. v. Yieldup Int'l Corp.*, 349 F.3d 1333, 1342 [68 USPQ2d 1940] (Fed. Cir. 2003)) and “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 [82 USPQ2d 1385] (2007).

Applicants note that the current claims are directed to an array of peptoid binding elements, whereas Dower et al. describe an array of Thrombopoietin receptors (TPO-R) having at least 156 amino acid residues (*See Dower et al. Example 3*). Thus, Dower et al., alone or in combination with other cited references, does not teach a peptoid array as claimed. Applicants respectfully request the withdrawal of the rejections.

The Action rejects claim 3 as being unpatentable over Dower et al. and Bellet et al., 5,011,771. Applicants respectfully traverse.

Applicants note that if an independent claim is not obvious then claims that depend from the non-obvious claim cannot be obvious because they depend from a nonobvious claim. *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) ("[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious."). As described above and incorporated here by reference claim 1 is not obvious in light of Dower et al., thus claim 3 is not obvious. Applicants request the withdrawal of the rejection.

The Action rejects claims 6, 7, 8, and 10-13 as being unpatentable over Dower et al. in view of Ring et al. 5,705,614 and in further view of Bellet et al. Applicants respectfully traverse.

Applicants note that if an independent claim is not obvious then claims that depend from the non-obvious claim cannot be obvious because they depend from a nonobvious claim. *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) ("[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious."). As described above and incorporated here by reference claim 1 is not obvious in light of Dower et al., thus claims 6, 7, 8, and 10-13 are not obvious. Applicants request the withdrawal of the rejection.

The Action rejects claims 9 and 45 as being unpatentable over Dower et al. in view of Liotta et al., 6,153,596. Applicants note that claims 9 and 45 have been canceled rendering this rejection moot.

The Action rejects claim 14 as being unpatentable over Dower et al. in view of Schwartz et al., 6,800,728. Applicants respectfully traverse.

Applicants note that if an independent claim is not obvious then claims that depend from the non-obvious claim cannot be obvious because they depend from a nonobvious claim. *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) ("[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious."). As described above and

incorporated here by reference claim 1 is not obvious in light of Dower et al., thus claim 14 is not obvious. Applicants request the withdrawal of the rejection.

The Action rejects claims 19, 20, and 22 as being unpatentable over Dower et al. in view of Chin et al., 6,197,599. Applicants respectfully traverse.

Applicants note that if an independent claim is not obvious then claims that depend from the non-obvious claim cannot be obvious because they depend from a nonobvious claim. *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) ("[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious."). As described above and incorporated here by reference claim 1 is not obvious in light of Dower et al., thus claims 19, 20, and 22 are not obvious. Applicants request the withdrawal of the rejection.

The Action rejects claims 23-26 as being unpatentable over Dower et al. in view of Ring et al. and Bellet et al. in further view of Chin et al. Applicants respectfully traverse.

Applicants note that if an independent claim is not obvious then claims that depend from the non-obvious claim cannot be obvious because they depend from a nonobvious claim. *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) ("[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious."). As described above and incorporated here by reference claim 1 is not obvious in light of Dower et al., thus claims 23-26 are not obvious. Applicants request the withdrawal of the rejection.

The Action rejects claim 21 as being unpatentable over Dower et al. in view of Monteforte et al., 7,091,046. Applicants respectfully traverse.

Applicants note that if an independent claim is not obvious then claims that depend from the non-obvious claim cannot be obvious because they depend from a nonobvious claim. *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) ("[D]ependent claims are nonobvious if the

independent claims from which they depend are nonobvious."). As described above and incorporated here by reference claim 1 is not obvious in light of Dower et al., thus claim 21 is not obvious. Applicants request the withdrawal of the rejection.

The Action rejects claim 27 as being unpatentable over Dower et al. in view of Ring et al., Bellet et al., Chin et al., and Monteforte et al. Applicants respectfully traverse.

Applicants note that if an independent claim is not obvious then claims that depend from the non-obvious claim cannot be obvious because they depend from a nonobvious claim. *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) ("[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious."). As described above and incorporated here by reference claim 1 is not obvious in light of Dower et al., thus claim 27 is not obvious. Applicants request the withdrawal of the rejection.

### **III. CONCLUSION**

In light of the foregoing, applicants respectfully submit that all claims are in condition for allowance, and an early notification to that effect is earnestly solicited. The examiner is invited to contact the undersigned attorney at (512) 536-3167 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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